

## **REMARKS**

As a preliminary matter, Applicant thanks the Examiner for the acknowledgement of allowable subject matter in claims 10 and 12 of the present invention. Accordingly, claim 10 of the present invention has been rewritten in independent form, and should therefore be in condition for allowance, which is respectfully requested. With respect to claim 12, claim 12 should also now be in condition for allowance as discussed below with respect to the outstanding Section 112 rejection.

Claim 12 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner finds unclear to which phase plate is referred in the claim. Accordingly, Applicant has amended claim 12 to clarify that both references to “phase plate” refer to the first phase plate. Applicant therefore respectfully requests reconsideration and withdrawal of the Section 112 rejection to claim 12 in light of these amendments, and submit that claim 12 is now in condition for allowance.

Claims 1-9 and 11 stand rejected under 35 U.S.C. 102(e) as being anticipated by Yamashita et al. (U.S. 6,392,972). Applicant respectfully traverses this rejection because the cited reference is drawn to an optical storage unit that fixes an inclination angle of a phase plate to only two positions for one type of an optical recording medium, whereas the present invention is drawn to a phase compensation method which allows setting of a phase plate to an arbitrary inclination angle within a predetermined variable range depending on the type of optical recording medium being utilized.

As previously discussed, Yamashita switches the position of the phase plate only between the land position LP and the groove position GP. Figs. 9A and 9B clearly show stoppers 52, 55 to stop and fix the phase plate at the land position LP and the groove position GP. Although the Examiner is correct that Yamashita teaches that “it is possible to arbitrarily set the optical phase of the incoming laser beam” (col. 9, lines 23-24), Yamashita only shows embodiments where the inclination angle is fixed, and even goes on to specifically describe how the inclination angle is fixed to only the two positions corresponding to the land position LP and the groove position GP. (See col. 9, lines 27-36).

Additionally, the Examiner has not asserted that Yamashita teaches (or suggests) how the mere possibility of arbitrarily setting the optical phase of the laser beam can actually be reduced to the practice of controlling the position of the phase plate to the arbitrary inclination angle within a predetermined variable range. Applicant respectfully reminds the Examiner that the outstanding rejection is under Section 102, which therefore requires the Examiner to show where in the single prior art reference is taught each and every feature and limitation of the present invention. In the present case, however, the Examiner has not done so. As discussed above, Yamashita only teaches the possibility of arbitrarily setting the inclination angle, but not how to specifically control such an angle within a predetermined variable range.

Of even more significance, the Examiner has not cited to anywhere within the Yamashita reference for teaching (or suggesting) how to control the position of the phase

plate within the recited range depending on both whether the track of the medium is a land or a groove, and depending on the type of the optical recording medium itself. As previously discussed, Yamashita is drawn to an invention that adjusts the inclination angle to the two fixed positions corresponding to the land and groove respectively, and for a single type of optical recording medium only. The Examiner has not cited to any teaching or suggestion within the Yamashita reference how the inclination angle can be adjusted, not only to the land and groove positions, but also according to the type of optical recording medium being used.

In contrast, independent claims 1-2 and 6 of the present invention have been amended to more clearly recite that the inclination angle of the phase plate is controlled within the predetermined variable range depending on both whether the track is a land or a groove, and depending on the type of optical recording medium itself. Applicant submits that this amended claim language clarifies the distinct differences between the present invention and the Yamashita reference, and respectfully requests reconsideration and withdrawal of the outstanding Section 102 rejection based on Yamashita in light of these amendments.

As discussed above, the Examiner has not asserted that Yamashita teaches how the inclination angle can be controlled according to the type of optical recording medium itself. Additionally, Yamashita further teaches the use of a stepping motor to move the phase plate, as shown in Fig. 10. (See also col. 10, lines 17-47). In other words, Yamashita shows how the phase plate is moved only along discrete steps, and not according to any arbitrary

position. The discrete steps are significant in that they more clearly support Yamashita's teaching to set the phase plate to the two fixed positions corresponding to the land and groove. Accordingly, for all of the foregoing reasons, Applicant submits that the Section 102 rejection of claims 1 and 6 in particular, as well as their dependent claims, has been overcome, and respectfully requests reconsideration and withdrawal of the rejection of these claims.

With respect to claim 2 in particular, Applicant respectfully points out that the Examiner has similarly not cited to support from the Yamashita reference that teaches (or suggests) to store control data related to the position of the phase plate depending on whether the track is a land or a groove, and where the position of the phase plate also differs depending on the type of optical recording medium. Again, as discussed above with respect to independent claims 1 and 6, Yamashita is drawn to an invention which utilizes a phase plate for a single optical recording medium. The Examiner has not cited to where in Yamashita is also taught (or suggested) how to store control data according to different types of optical recording media, as featured in claim 2 of the present invention. Accordingly, for at least these reasons, the Section 102 rejection of claim 2 based on Yamashita is also respectfully traversed, and Applicant respectfully requests reconsideration and withdrawal of the rejection.

For all of the foregoing reasons, Applicant submits that this Application, including claims 1-12, is in condition for allowance, which is respectfully requested. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,

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